

Assurance of Voluntary Compliance

**Pursuant to section 112.7 of the
*Ontario Energy Board Act, 1998***

Kingston Hydro Corporation

EB-2023-0063

February 10, 2023

I. STATEMENT OF FACTS

On April 14, 2022 the Ontario Energy Board (OEB) sent a letter to all licensed electricity distributors in the province advising them that the OEB had recently accepted an Assurance of Voluntary Compliance (AVC) from a distributor that had overcharged customers as a result of incorrectly prorating the fixed monthly charges approved by the OEB under section 78 of the *Ontario Energy Board Act, 1998* (OEB Act). The letter explained:

The AVC arose after a distributor identified that it was overcharging customers due to applying a daily charge that had been incorrectly calculated. While the distributor used the approved fixed monthly charges from its OEB-approved Rate Order, its billing system translated these monthly charges into a daily charge for application to customers' bills. In the translation from monthly to daily charge, the daily charge was calculated on the basis of there being 30 days in every month (or 360 days in a year) but billed customers 365 days a year, leading to an overcharge of each customer.

The letter asked all distributors to review their billing systems and to advise the OEB if they discovered the same proration issue. On June 29, 2022, Kingston Hydro Corporation ("**KHC**"), a distributor serving approximately 28,000 customers, responded to the OEB's letter and self-reported that it had historically prorated its fixed monthly charges in a similar manner for a certain subset of customers.

KHC's investigations revealed that it only used proration in two circumstances: (a) the first and last bill of a partial month (move-in and move-out); or (b) if the customer is billed off cycle (not based on their bill day) when accounts are behind on billing and trying to be caught up (collectively, the "**Impacted Bills**"). For the Impacted Bills, the billing system prorated the monthly service charge rate to a daily charge using a set value of 30 days to calculate the daily rate, regardless of the month.

The proration issue applied to all Impacted Bills' fixed monthly charges across all rate classes except for Street Lighting as these charges are calculated outside of the billing system on a monthly basis and proration is not applied. In all other circumstances, KHC charged customers the correct fixed monthly charges approved by the OEB.

KHC determined that the issue persisted for several years and implemented appropriate system changes to correct the billing calculations. KHC instituted these changes effective as of June 12, 2022 to its customer billing system to ensure customers would not be overcharged due to the incorrect proration of fixed monthly charges.

KHC recognizes that several other distributors that have provided an AVC to the OEB in respect of the incorrect proration of fixed charges have agreed to issue a credit to affected customers equivalent to four years' worth of overcharges. As the Impacted Bills represented only a portion of all bills issued, the total amount that KHC overcollected over the last four years, from all rate classes other than the Street Lighting class, was relatively small: \$21,878 (or an average of \$5,470 per year). Considering that a four-year customer credit would be small, and that many customers who received Impacted Bills, such as university or college students, are no longer customers of KHC and therefore difficult to track down, KHC has

proposed instead to make a contribution to the Low-income Energy Assistance Program (LEAP), to help customers in need.

II. ASSURANCE

KHC acknowledges that, as a result of its billing system configuration, it was over-billing some customers more than the OEB-approved fixed charges. To remedy the contravention of the rate orders, KHC assures the OEB that it will take the following measures:

1. KHC will make a payment of \$21,878 to the Low-income Energy Assistance Program serving customers in the KHC service territory, which is equivalent to four years of overcharges (June 13, 2018 to June 12, 2022).

The LEAP payment will be paid as lump sum within 90 days of the acceptance of this AVC by the OEB.

2. At the time of the contribution to LEAP, KHC will notify customers of the contribution and this AVC, in a form and manner to be approved by the OEB.

III. ADMINISTRATIVE PENALTY

KHC agrees to pay an administrative penalty to the OEB in the amount of \$2,500. Payment will be made electronically with notice sent to the Registrar, within four weeks of the acceptance of this AVC by the OEB.

IV. CONSUMER RIGHTS

Nothing in this AVC affects any rights a consumer may have under any applicable law.

V. FAILURE TO COMPLY

KHC acknowledges that this AVC has the same force and effect as an order of the OEB pursuant to section 112.7(2) of the OEB Act.

VI. EXECUTION OF ASSURANCE

I have the authority to bind KHC to the terms set out in this AVC.

Name: David Fell

Title: President and CEO

Signature: 

Dated this 10th day of February, 2023

Name: Randy Murphy

Title: Chief Financial Officer

Signature: 

Dated this 10th day of February, 2023